

Dr. Lawrence S. Feldman, Board Member

**SUBJECT: EXPLORATION AND DETERMINATION OF VIABILITY OF JOINDER
IN PRESCRIPTION OPIATE LITIGATION**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

**LINK TO STRATEGIC
BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

Prescription opioids can be used to treat moderate-to-severe pain and are regularly prescribed by doctors following a surgery or an injury, or to treat other health conditions, such as the pain brought on by certain types of cancer. According to the Centers for Disease Control and Prevention (CDC), in spite of the myriad side effects from the continued use of opioids, including the potential for addiction, and despite the lack of evidence about their long-term effectiveness, today opioids are increasingly prescribed for the treatment of chronic, non-cancer related pain, such as back pain or osteoarthritis.

Data maintained by the CDC indicates that from 1999 to 2017, more than 700,000 people have died from a drug overdose and around 68% percent of the more than 70,200 drug overdose deaths in 2017 involved an opioid. The National Center for Health Statistics estimates that in 2017 alone, the number of overdose deaths involving opioids (including prescription opioids and illegal opioids) was 6 times higher than in 1999 and that on average, 130 Americans die every day from an opioid overdose. It has been widely reported that in Florida, more than 4,000 babies were born addicted to opioids last year, an increase of over 1,000 percent from a decade ago; there has also been a 38 percent increase in the number of children under the age of five who have been removed from homes because of substance abuse in the past four years ("Children become collateral damage in Florida opioid crisis," *Orlando Sentinel*, Jan. 2, 2018). In 2016, an estimated 48.5 million persons in the U.S., or 18.0% of persons aged 12 years and older, reported use of illicit drugs or misuse of prescription drugs in the past year (*2018 Annual Surveillance Report of Drug-Related Risks and Outcomes* from the CDC National Center for Injury Prevention and Control).

Information provided by the National Institute on Drug Abuse ("NIDA") shows that in 2016, there were 2,798 opioid-related overdose deaths in Florida and that in the past several years, Florida has seen a dramatic increase in the number of deaths, particularly among those related to synthetic opioids: in 2016, there were 1,566 synthetic opioid-related deaths compared to 200 in 2013. According to statistics provided by NIDA, in Miami-Dade County, the number of prescription opioid drug-related deaths increased by 13 percent (from 312 to 353 deaths) in 2012. While there has been a decrease in the number of opioid-related deaths, they remain unabated. The School Board of Miami-Dade County has recognized the need to address the issue through its support of Agenda Item H-11 sponsored by School Board Member Lubby Navarro at the August 9, 2017 School Board meeting and Agenda Item H-3 sponsored by Dr. Martin Karp at the April 24, 2018 School Board meeting.

The foregoing statistics merely provide a glimpse of what has been described as a national opioid crisis. In addition to the staggering and tragic loss of life, this national epidemic has also had an undeniable financial impact on local government entities that must respond to the daily and life-long consequences brought about by the use of prescribed opioids by local residents. School districts and educational institutions will have to bear the additional costs associated with the services to and education of children born under addiction and those experiencing the effects of addiction including, but not limited to, learning and cognitive issues, physical effects, mental health concerns, etc.

Lately, manufacturers and distributors of prescription opioids have come under scrutiny as one of the alleged perpetrators of this epidemic. State and local entities, including Florida's Attorney General have filed suits against manufacturers and distributors of prescription opioids. The main purpose of these lawsuits is to seek compensation for the financial toll states and local entities face in responding to the effects of the opioid epidemic. Some of these suits have been filed locally in state courts throughout the nation, while others have been transferred to national prescription opiate litigation currently overseen by the United States District Court for the Northern District of Ohio.

This item seeks the authority of the Board to direct the School Board Attorney to explore the feasibility of the School Board joining in the national prescription opiate litigation, including any other related litigation and the potential viability of said joinder. This authorization would also allow the School Board Attorney to recommend, if deemed appropriate, a lawsuit in state court as opposed to joinder in the national prescription opioid litigation. As such, upon determining the proper forum and the viability of a lawsuit, the Board Attorney would bring back an item to the School Board for authorization to commence litigation on behalf of the School Board as a Plaintiff in either federal or state court, as deemed most appropriate. The item would include any additional recommendations, including but not limited to, recommending appropriate outside counsel to represent the Board in such litigation, the anticipated costs (if any) and an explanation of the risks associated with such litigation.

This Item has been reviewed and approved by the School Board Attorney's Office as to form and legal sufficiency.

**ACTION PROPOSED BY
DR. LAWRENCE S. FELDMAN:**

That The School Board of Miami-Dade County, Florida, direct the School Board Attorney to: (1) explore the feasibility of filing a lawsuit on behalf of the School Board and against the identified responsible defendants in the state court with the appropriate jurisdiction or by joining the national prescription opiate litigation in the appropriate Federal District Court; and (2) provide an update to the Board with the relevant conclusions as delineated in this item, and the requisite recommendations prior to the February 2019 Board meeting.